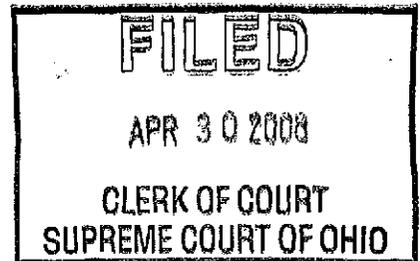


BEFORE THE BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO



In Re: : 08-0824

Complaint against : Case No. 07-003

Anne Veneziano : Findings of Fact,
Attorney Reg. No. 0064382 : Conclusions of Law and
Respondent : Recommendation of the
Cuyahoga County Bar Association : Board of Commissioners on
Relator : Grievances and Discipline of
: the Supreme Court of Ohio
:

This matter was heard on January 10, 2008, in Cleveland, Ohio, before a panel consisting of Lisa M. Lancione Fabbro of Sheffield Village, Walter Reynolds of Dayton, and Jana E. Emerick, Chair, of Lima, Ohio. None of the panel members resides in the judicial district from which the complaint arose, or served as a member of the probable cause panel that certified this matter to the Board.

Relator was represented by Attorneys Ellen Mandell, Leif Christman and Andrew Zashin. Respondent was present and was represented by Attorneys Barry Freeman and Geoffrey Stern.

PROCEDURAL BACKGROUND

The complaint in this matter was filed on February 12, 2007. The complaint alleged seven counts of misconduct, that were set forth in the complaint as Counts 1, 2, 3, 5, 6, 7, and 8. There was no Count 4 in the complaint and the parties are aware of this omission, and so no reference shall be made to any Count 4, for that reason. Upon motion made by the relator a few

weeks before the hearing, and granted by the panel chair, Counts 2, 6, and 8 were dismissed with prejudice and Count 3 was dismissed without prejudice. Thus, at the time the hearing was held, only Counts 1, 5, and 7 of the complaint were left for the panel's determination.

Count 1 alleged that respondent failed to file federal tax forms W-2, W-4, and I-9 as required by law with respect to persons employed by respondent in her law practice, and that respondent failed to pay state and federal payroll taxes for her employees. Count 1 alleged that this conduct constituted a violation of DR 1-102(A)(6) [conduct adversely reflecting on fitness to practice law].

Count 5 alleged that respondent deposited into her IOLTA account \$29,000.00 of funds belonging to one Clifford Thornton, a friend of respondent's and an attorney unconnected to respondent's practice of law, in order to "safeguard" the funds for Thornton, so he would not spend them. Count 5 further alleged that respondent also deposited her own personal funds into her IOLTA account for a period of time in order to assure that her IOLTA account was not overdrawn, but not simply to cover bank fees. Count 5 alleged that this conduct constituted a violation of DR 9-102(A) [requiring that client funds be deposited into an identifiable bank account and prohibiting depositing funds belonging to the lawyer into an IOLTA account].

Count 7 alleged that respondent has at least eighteen tax liens filed against her, as well as numerous civil judgments relating to respondent's law practice. Count 7 alleged that this conduct constituted a violation of DR1-102(A)(6) [conduct adversely reflecting on fitness to practice law].

In the answer filed by respondent, most of those factual allegations were admitted, although respondent denied that any disciplinary rule violations occurred. At the hearing, the parties entered into a series of jointly stipulated facts, a copy of which are attached to this report.

Respondent testified at the hearing, and also presented the testimony of several witnesses, both fact and character witnesses.

FINDINGS OF FACT

Based upon the respondent's answer to the complaint, the stipulations of the parties and the evidence presented at the hearing, the panel finds the following facts to have been proven by clear and convincing evidence:

Respondent was admitted to the practice of law in Ohio in May of 1995, and has run her own law practice, as a sole practitioner, since December of 1995. In addition to the law degree respondent earned at Case Western Reserve University, where she graduated cum laude, respondent has a bachelor's degree in psychology from Syracuse University, a master's degree in social work, was accepted into and briefly attended the LL.M. program in tax law at Case Western Reserve University, attended medical school for four years, and is now working on a Ph.D. in clinical psychology. Respondent testified that the issue of taxes and the other financial affairs of her law practice had always been handled by her husband of thirty-five years, who is a certified public accountant.

With regard to Count 1, respondent acknowledges that she failed to pay withholding taxes for any of her employees for approximately seven years, and that she failed to file required federal tax forms for her employees, such as W-2s, W-4s and I-9s. Respondent claims that she simply had no knowledge of the concept of an employer having to withhold monies from an employee's paycheck in order to forward that money to the government for taxes. Respondent further claims that she relied upon her husband's tax advice and that she did not realize she had to prepare or file tax forms with regard to persons she employed. In light of respondent's age,

educational background, employment history and the fact her husband is a certified public accountant, the panel finds that respondent's explanation completely lacks credibility.

With regard to Count 5, respondent acknowledges that she received \$29,000.00 from Clifford Thornton in May of 2006, which respondent deposited into her IOLTA account. Although respondent had previously represented Thornton as his attorney, respondent was not representing Thornton in any matter in May of 2006 and the funds received from Thornton did not relate to any legal representation of Thornton by respondent. The testimony of both respondent and Thornton was equally vague, and also not very credible, as to why respondent was holding this large sum of money for Thornton in respondent's trust account. Respondent's bank and financial records were incomplete and, at the time of the hearing, she also could not adequately account for portions of the \$29,000.00 that she subsequently withdrew from her IOLTA account, although she testified they were disbursed to Thornton or paid on his behalf.

With regard to Count 7, respondent acknowledges that seventeen tax liens have been filed against her as a result of her failure to timely file federal and state income tax returns, and/or her failure to pay taxes owed for the years 2001 through 2005.

CONCLUSIONS OF LAW

Based upon the stipulations of the parties and the evidence presented at the hearing, the panel unanimously finds by clear and convincing evidence that the conduct of respondent constituted a violation of DR 1-102(A)(6) [conduct adversely reflecting on fitness to practice law] as alleged in Count 1, a violation of DR 9-102(A) [requiring that client funds be deposited into an identifiable bank account and prohibiting depositing funds belonging to the lawyer into an IOLTA account] as alleged in Count 5, and a violation of DR1-102(A)(6) [conduct adversely reflecting on fitness to practice law] as alleged in Count 7.

RECOMMENDATION

As to applicable mitigating factors, the panel finds that respondent has not been subject to any prior disciplinary sanctions, respondent did not act out of selfish motives and respondent has taken some remedial steps to insure that she does not fail in the future to comply with her obligations relating to filing tax returns and paying payroll taxes.

As to applicable aggravating factors, the panel finds that respondent engaged in a pattern of misconduct, as her failure to comply with the most basic of financial and legal obligations of law practice management went on for a period of six to seven years. The panel also finds that respondent refuses to completely acknowledge the wrongfulness of her conduct, although she readily admits engaging in the actions that form the basis of the misconduct. More specifically, the panel finds it to be an aggravating factor that respondent fails to acknowledge, or perhaps to even understand, that it was her responsibility to ensure that her office's tax affairs, her IOLTA account, and her personal income tax affairs were conducted in accordance with law.

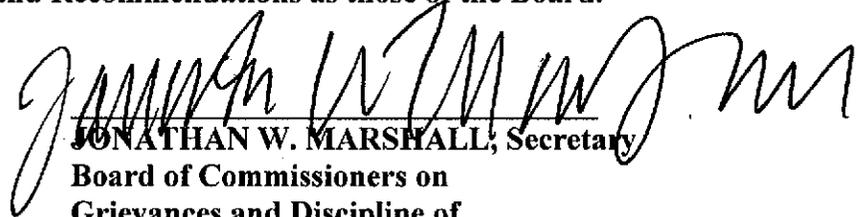
For all of the foregoing reasons, it is the recommendation of the panel that respondent be suspended from the practice of law for twelve months, but that the suspension be stayed upon the condition that respondent successfully complete a two-year term of probation, during which time respondent be required to complete at least twelve hours of continuing legal education relating to law office management, that respondent be required to have a monitor appointed to oversee respondent's law practice with respect to office management, and that respondent engage in no further professional misconduct.

BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter April 11, 2008. The Board

adopted the Findings of Fact of the Panel. The Board concluded that Respondent violated DR 1-102(A)(6) in Count 1 and in Count 7. However, the Board voted to dismiss Count 5 concluding there was no violation of DR 9-102(A) because that rule only expressly prohibits co-mingling funds belonging to the lawyer with client funds, while the funds co-mingled in this case belonged to a third party. It is the Recommendation of the Board that the Respondent, Anne Veneziano, be suspended for twelve months with the entire twelve months stayed for a two-year term of probation as outlined in the panel report.. The Board further recommends that the cost of these proceedings be taxed to the Respondent in any disciplinary order entered, so that execution may issue.

Pursuant to the order of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendations as those of the Board.



**JONATHAN W. MARSHALL, Secretary
Board of Commissioners on
Grievances and Discipline of
The Supreme Court of Ohio**

**BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE
OF THE SUPREME COURT OF OHIO**

In Re: :CASE NO 07-003
CERTIFIED GRIEVANCE COMMITTEE OF THE :
CUYAHOGA COUNTY BAR ASSN. :
Relator : **STIPULATIONS**
ANNE VENEZIANO :
Respondent :

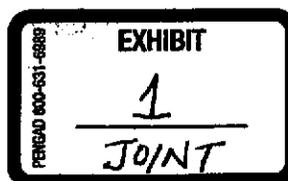
The parties hereby stipulate the following:

STIPULATIONS AS TO COUNT ONE

1. Respondent did not pay required employer withholding taxes for her employees for a number of years, until 2002 when she learned such taxes were required to be withheld and paid;
2. Respondent's failure to pay required employer withholding taxes was a result of her ignorance about employment taxes and was not the result of any conscious effort to disregard her obligations.

STIPULATIONS AS TO COUNT FIVE

3. In or about May, 2006, Respondent received Twenty-nine Thousand Dollars (\$29,000.00) from A. Clifford Thornton, an Ohio attorney, who asked Respondent to hold the funds for him;
4. Thornton has/does serve as co-counsel with Respondent or serves as guardian, pursuant to



probate court order, for some of Respondent's clients;

5. Respondent has represented Thornton as his attorney;
6. Respondent was not representing Thornton in any matter in May, 2006, and the funds did not represent the proceeds from any representation of Thornton by Respondent;
7. Initially, Thornton's funds were deposited into respondent's general business checking account;
8. Subsequently, Respondent transferred the funds into her IOLTA account;
9. During the course of the investigation by Relator, and upon the advice of her counsel, Respondent transferred Thornton's funds into a newly-created "payable on death" account in Respondent's name.

STIPULATIONS AS TO COUNT SEVEN

10. Respondent has or had seventeen (17) tax liens filed against her as a result of her failure to timely file federal and state income tax returns and/or her failure to pay taxes owed for the years 2001 -2005;
11. Respondent has filed her federal and state tax returns on a delayed basis;
12. Respondent has entered into a payment plan with the federal and state taxing authorities.

MITIGATING AND AGGRAVATING FACTORS

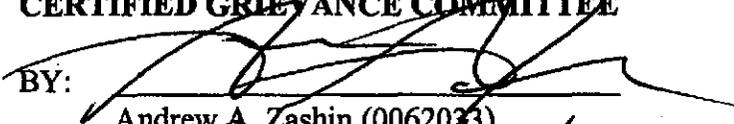
13. Respondent has not been subject to any prior disciplinary sanctions;
14. Respondent did not act out of selfish or dishonest motives;
15. Respondent has taken remedial steps to insure that she does not fail in the future to meet her obligations with respect to filing taxes returns and paying payroll taxes.

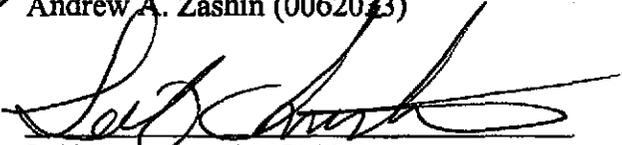
The foregoing constitute the stipulations reached by Relator and Respondent

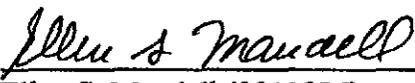
Respectfully submitted,

**CUYAHOGA COUNTY BAR ASSOCIATION
CERTIFIED GRIEVANCE COMMITTEE**

BY:

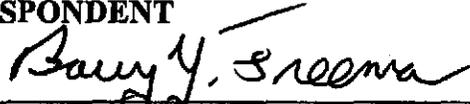

Andrew A. Zashin (0062033)

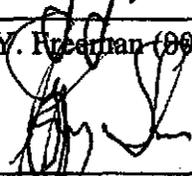

Leif Christman (0070014)


Ellen S. Mandell (0012026)

FOR RESPONDENT

BY:


Barry Y. Freeman (0062040)


Geoffrey Stern (0013119)


Anne D. Veneziano (0064382)